

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 360

SENATE BILL 1087

AN ACT

AMENDING SECTIONS 36-2982, 36-2983, 36-2988 AND 36-2989, ARIZONA REVISED
STATUTES; RELATING TO THE CHILDREN'S HEALTH INSURANCE PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-2982, Arizona Revised Statutes, is amended to
3 read:

4 36-2982. Children's health insurance program; administration;
5 nonentitlement; enrollment limitation; eligibility

6 A. The children's health insurance program is established for children
7 who are eligible pursuant to section 36-2981, paragraph 6. The
8 administration shall administer the program. All covered services shall be
9 provided by health plans that have contracts with the administration pursuant
10 to section 36-2906, by a qualifying plan or by either tribal facilities or
11 the Indian health service for Native Americans who are eligible for the
12 program and who elect to receive services through the Indian health service
13 or a tribal facility.

14 B. This article does not create a legal entitlement for any applicant
15 or member who is eligible for the program. Total enrollment is limited based
16 on the annual appropriations made by the legislature and the enrollment cap
17 prescribed in section 36-2985.

18 C. ~~Beginning on October 1, 1997,~~ The director shall take all steps
19 necessary to implement the administrative structure for the program and to
20 begin delivering services to persons within sixty days after approval of the
21 state plan by the United States department of health and human services.

22 D. The administration shall perform eligibility determinations for
23 persons applying for eligibility and annual redeterminations for continued
24 eligibility pursuant to this article.

25 E. The administration shall adopt rules for the collection of
26 copayments from members whose income does not exceed one hundred fifty per
27 cent of the federal poverty level and for the collection of copayments and
28 premiums from members whose income exceeds one hundred fifty per cent of the
29 federal poverty level. The director shall adopt rules for disenrolling a
30 member if the member does not pay the premium required pursuant to this
31 section. THE DIRECTOR SHALL ADOPT RULES TO PRESCRIBE THE CIRCUMSTANCES UNDER
32 WHICH THE ADMINISTRATION SHALL GRANT A HARDSHIP EXEMPTION TO THE
33 DISENROLLMENT REQUIREMENTS OF THIS SUBSECTION FOR A MEMBER WHO IS NO LONGER
34 ABLE TO PAY THE PREMIUM.

35 F. Before enrollment, a member, or if the member is a minor, that
36 member's parent or legal guardian, shall select an available health plan in
37 the member's geographic service area or a qualifying health plan offered in
38 the county, and may select a primary care physician or primary care
39 practitioner from among the available physicians and practitioners
40 participating with the contractor in which the member is enrolled. The
41 contractors shall only reimburse costs of services or related services
42 provided by or under referral from a primary care physician or primary care
43 practitioner participating in the contract in which the member is enrolled,
44 except for emergency services that shall be reimbursed pursuant to section
45 36-2987. The director shall establish requirements as to the minimum time

1 period that a member is assigned to specific contractors. An eligible child,
2 or that child's parent or guardian, may elect to receive direct, sliding fee
3 scale medical and health care services from qualifying health centers
4 pursuant to section 36-2907.06, subsection G, and from hospitals pursuant to
5 section 36-2907.08. An eligible child, or that child's parent or guardian,
6 who elects direct services shall not be enrolled with a qualifying plan
7 unless the child, or that child's parent or guardian, elects to receive
8 services pursuant to this article.

9 G. Eligibility for the program ~~shall be counted as~~ IS creditable
10 coverage as defined in section 20-1379.

11 H. On application for eligibility for the program, the member, or if
12 the member is a minor, the member's parent or guardian, shall receive an
13 application for and a program description of the premium sharing
14 demonstration project if the member resides in a county chosen to participate
15 in that project.

16 I. Notwithstanding section 36-2983, the administration may purchase
17 for a member employer sponsored group health insurance with state and federal
18 monies available pursuant to this article, subject to any restrictions
19 imposed by the federal health care financing administration. This subsection
20 does not apply to members who are eligible for health benefits coverage under
21 a state health benefits plan based on a family member's employment with a
22 public agency in this state.

23 Sec. 2. Section 36-2983, Arizona Revised Statutes, is amended to read:

24 36-2983. Eligibility for the program

25 A. The administration shall establish a streamlined eligibility
26 process for applicants to the program and shall issue a certificate of
27 eligibility at the time eligibility for the program is determined.
28 Eligibility shall be based on gross household income for a member as defined
29 in section 36-2981. The administration shall not apply a resource test in
30 the eligibility determination or redetermination process.

31 B. The administration shall use a simplified eligibility form that may
32 be mailed to the administration. Once a completed application is received,
33 including adequate verification of income, the administration shall expedite
34 the eligibility determination and enrollment on a prospective basis.

35 C. The date of eligibility is the first day of the month following a
36 determination of eligibility if the decision is made by the twenty-fifth day
37 of the month. A person who is determined eligible for the program after the
38 twenty-fifth day of the month is eligible for the program the first day of
39 the second month following the determination of eligibility.

40 D. Each person who applies for services pursuant to section 11-297,
41 36-2905 or 36-2905.03 shall be screened for potential eligibility for
42 services provided pursuant to this article. If the person appears to be
43 eligible for services the screening agency shall make a referral to the
44 administration.

1 E. An applicant for the program who appears to be eligible pursuant
2 to section 36-2901, paragraph 4, subdivision (b) shall have a social security
3 number or shall apply for a social security number within thirty days after
4 the applicant submits an application for the program.

5 F. In order to be eligible for the program, a person shall be a
6 resident of this state and shall meet title XIX requirements for United
7 States citizenship or qualified alien status in the manner prescribed in
8 section 36-2903.03.

9 G. In determining the eligibility for all qualified aliens pursuant
10 to this article, the income and resources of a person who executed an
11 affidavit of support pursuant to section 213A of the immigration and
12 nationality act on behalf of the qualified alien and the income and resources
13 of the spouse, if any, of the sponsoring individual shall be counted at the
14 time of application and for the redetermination of eligibility for the
15 duration of the attribution period as specified in federal law.

16 H. Pursuant to federal law, a person is not eligible for the program
17 if that person is:

18 1. Eligible for title XIX or other federally operated or financed
19 health care insurance programs, except the Indian health service.

20 2. Covered by any group health plan or other health insurance coverage
21 as defined in section 2791 of the public health service act. Group health
22 plan or other health insurance coverage does not include coverage to persons
23 who are defined as eligible pursuant to section 36-2901, paragraph 4,
24 subdivision (a), (c) or (h) or the premium sharing program.

25 3. A member of a family that is eligible for health benefits coverage
26 under a state health benefit plan based on a family member's employment with
27 a public agency in this state.

28 4. An inmate of a public institution or a patient in an institution
29 for mental diseases. This paragraph does not apply to services furnished in
30 a state operated mental hospital or to residential or other twenty-four hour
31 therapeutically planned structured services.

32 I. A child who is covered under an employer's group health insurance
33 plan or through family or individual health care coverage shall not be
34 enrolled in the program. If the health insurance coverage is voluntarily
35 discontinued for any reason, except for the loss of health insurance due to
36 loss of employment or other involuntary reason, the child is not eligible for
37 the program for a period of six THREE months from the date that the health
38 care coverage was discontinued. THE ADMINISTRATION MAY WAIVE THE THREE MONTH
39 PERIOD FOR ANY CHILD WHO IS SERIOUSLY OR CHRONICALLY ILL. FOR THE PURPOSES
40 OF THE WAIVER "CHRONICALLY ILL" MEANS A MEDICAL CONDITION THAT REQUIRES
41 FREQUENT AND ONGOING TREATMENT AND THAT IF NOT PROPERLY TREATED WILL
42 SERIOUSLY AFFECT THE CHILD'S OVERALL HEALTH. THE ADMINISTRATION SHALL
43 ESTABLISH RULES TO FURTHER DEFINE CONDITIONS THAT CONSTITUTE A SERIOUS OR
44 CHRONIC ILLNESS. BEGINNING ON JANUARY 1, 2002, IN THE ANNUAL REPORT REQUIRED

1 PURSUANT TO SECTION 36-2996, THE ADMINISTRATION SHALL PROVIDE THE CONDITIONS
2 AND THE NUMBER OF CHILDREN INCLUDED IN EACH CATEGORY.

3 J. Pursuant to federal law, a private insurer, as defined by the
4 secretary of the United States department of health and human services, shall
5 not limit enrollment by contract or any other means based on the presumption
6 that a child may be eligible for the program.

7 Sec. 3. Section 36-2988, Arizona Revised Statutes, is amended to read:
8 36-2988. Delivery of services; health plans; requirements

9 A. To the extent possible, the administration shall use contractors
10 that have a contract with the administration pursuant to article 1 of this
11 chapter or qualifying plans to provide services to members who qualify for
12 the program.

13 B. The administration has full authority to amend existing contracts
14 awarded pursuant to article 1 of this chapter.

15 C. As determined by the director, reinsurance may be provided against
16 expenses in excess of a specified amount on behalf of any member for covered
17 emergency services, inpatient services or outpatient services in the same
18 manner as reinsurance provided under article 1 of this chapter. Subject to
19 the approval of the director, reinsurance may be obtained against expenses
20 in excess of a specified amount on behalf of any member.

21 D. Notwithstanding any other law, the administration may procure,
22 provide or coordinate covered services by interagency agreement with
23 authorized agencies of this state for distinct groups of members, including
24 persons eligible for children's rehabilitative services through the
25 department of health services and members eligible for comprehensive medical
26 and dental benefits through the department of economic security.

27 E. After contracts are awarded pursuant to this section, the director
28 may negotiate with any successful bidder for the expansion or contraction of
29 services or service areas.

30 F. Payments to contractors shall be made monthly and may be subject
31 to contract provisions requiring the retention of a specified percentage of
32 the payment by the director, a reserve fund or any other contract provisions
33 by which adjustments to the payments are made based on utilization
34 efficiency, including incentives for maintaining quality care and minimizing
35 unnecessary inpatient services. Reserve monies withheld from contractors
36 shall be distributed to providers who meet performance standards established
37 by the director. Any reserve fund established pursuant to this subsection
38 shall be established as a separate account within the Arizona health care
39 cost containment system.

40 G. The director may negotiate at any time with a hospital on behalf
41 of a contractor for inpatient hospital services and outpatient hospital
42 services provided pursuant to the requirements specified in section 36-2904.

43 H. A contractor may require that subcontracting providers or
44 noncontracting providers be paid for covered services, other than, hospital

1 services, according to the capped fee-for-service schedule adopted by the
2 administration or at lower rates as may be negotiated by the contractor.

3 1. The administration and contractors shall not contract for any
4 services or functions related to this article with a school district
5 including contracting for the delivery of services, screening, outreach or
6 information that involves the use of school staff and facilities. A SCHOOL
7 DISTRICT MAY PERFORM OUTREACH AND INFORMATION ACTIVITIES THAT RELATE TO THIS
8 ARTICLE. OUTREACH AND INFORMATION ACTIVITIES PERFORMED BY A SCHOOL DISTRICT
9 SHALL NOT REDUCE OR INTERFERE WITH CLASSROOM INSTRUCTION TIME.

10 J. The administration is exempt from the procurement code pursuant to
11 section 41-2501.

12 Sec. 4. Section 36-2989, Arizona Revised Statutes, is amended to read:

13 36-2989. Covered health and medical services; modifications;
14 related delivery of service requirements

15 A. Except as provided in this section, ~~the director shall establish~~
16 ~~a specific health benefits coverage package that is as nearly as practicable~~
17 ~~the same as the least expensive health benefits coverage plan or plans that~~
18 ~~are offered through a health care services organization available to state~~
19 ~~employees under section 38-651. The package shall include the following~~
20 ~~covered services:~~ BEGINNING ON OCTOBER 1, 2001, HEALTH AND MEDICAL SERVICES
21 AS DEFINED IN SECTION 36-2907 ARE COVERED SERVICES AND INCLUDE:

22 1. Inpatient hospital services that are ordinarily furnished by a
23 hospital for the care and treatment of inpatients, that are medically
24 necessary and that are provided under the direction of a physician or a
25 primary care practitioner. For the purposes of this paragraph, inpatient
26 hospital services exclude services in an institution for tuberculosis or
27 mental diseases unless authorized by federal law.

28 2. Outpatient health services that are medically necessary and
29 ordinarily provided in hospitals, clinics, offices and other health care
30 facilities by licensed health care providers. For the purposes of this
31 paragraph, "outpatient health services" includes services provided by or
32 under the direction of a physician or a primary care practitioner.

33 3. Other laboratory and X-ray services ordered by a physician or a
34 primary care practitioner.

35 4. Medications that are medically necessary and ordered on
36 prescription by a physician, a primary care practitioner or a dentist
37 licensed pursuant to title 32, chapter 11.

38 5. Medical supplies, equipment and prosthetic devices.

39 6. Treatment of medical conditions of the eye including one eye
40 examination each year EXAMINATIONS for prescriptive lenses and the provision
41 of one set of prescriptive lenses each year for members.

42 7. Medically necessary dental services.

43 8. Well child services, immunizations and prevention services.

44 9. Family planning services that do not include abortion or abortion
45 counseling. If a contractor elects not to provide family planning services,

1 this election does not disqualify the contractor from delivering all other
2 covered health and medical services under this article. In that event, the
3 administration may contract directly with another contractor, including an
4 outpatient surgical center or a noncontracting provider, to deliver family
5 planning services to a member who is enrolled with a contractor who elects
6 not to provide family planning services.

7 10. Podiatry services that are performed by a podiatrist licensed
8 pursuant to title 32, chapter 7 and that are ordered by a primary care
9 physician or primary care practitioner.

10 11. Medically necessary pancreas, heart, liver, kidney, cornea, lung
11 and heart-lung transplants and autologous and allogeneic bone marrow
12 transplants and immunosuppressant medications for these transplants ordered
13 on prescription by a physician licensed pursuant to title 32, chapter 13 or
14 17.

15 12. Medically necessary emergency AND NONEMERGENCY transportation.

16 13. Inpatient and outpatient behavioral health services THAT ARE THE
17 SAME AS THE LEAST RESTRICTIVE HEALTH BENEFITS COVERAGE PLAN FOR BEHAVIORAL
18 HEALTH SERVICES THAT ARE OFFERED THROUGH A HEALTH CARE SERVICES ORGANIZATION
19 FOR STATE EMPLOYEES UNDER SECTION 38-651. ~~Inpatient behavioral health~~
20 ~~services are limited to not more than thirty days for each twelve month~~
21 ~~period from the date of initial enrollment or the redetermination of~~
22 ~~eligibility. Outpatient behavioral services are limited to not more than~~
23 ~~thirty visits for each twelve month period from the date of initial~~
24 ~~enrollment or the redetermination of eligibility.~~

25 B. The administration shall pay noncontracting providers only for
26 health and medical services as prescribed in subsection A of this section.

27 C. To the extent possible and practicable, the administration and
28 contractors shall provide for the prior approval of medically necessary
29 services provided pursuant to this article.

30 D. The director shall make available home health services in lieu of
31 hospitalization pursuant to contracts awarded under this article.

32 E. Behavioral health services shall be provided to members through the
33 administration's intergovernmental agreement with the division of behavioral
34 health in the department of health services. The division of behavioral
35 health in the department of health services shall use its established
36 diagnostic and evaluation program for referrals of children who are not
37 already enrolled pursuant to this article and who may be in need of
38 behavioral health services. In addition to an evaluation, the division of
39 behavioral health shall also identify children who may be eligible under
40 section 36-2901, paragraph 4, subdivision (b) or section 36-2931, paragraph
41 5 and shall refer the children to the appropriate agency responsible for
42 making the final eligibility determination. ~~Members who are eighteen years~~
43 ~~of age and who are not seriously mentally ill shall be referred to the~~
44 ~~contractors for behavioral health services.~~

1 F. The director shall adopt rules for the provision of transportation
2 services for members. Prior authorization is not required for medically
3 necessary ambulance transportation services rendered to members initiated by
4 dialing telephone number 911 or other designated emergency response systems.

5 G. The director may adopt rules to allow the administration to use a
6 second opinion procedure under which surgery may not be eligible for coverage
7 pursuant to this article without documentation as to need by at least two
8 physicians or primary care practitioners.

9 H. All health and medical services provided under this article shall
10 be provided in the county of residence of the member, except:

11 1. Emergency services and specialty services.

12 2. The director may permit the delivery of health and medical services
13 in other than the county of residence in this state or in an adjoining state
14 if it is determined that medical practice patterns justify the delivery of
15 services in other than the county of residence or a net reduction in
16 transportation costs can reasonably be expected. Notwithstanding section
17 36-2981, paragraph 8 or 11, if services are procured from a physician or
18 primary care practitioner in an adjoining state, the physician or primary
19 care practitioner shall be licensed to practice in that state pursuant to
20 licensing statutes in that state that are similar to title 32, chapter 13,
21 15, 17 or 25.

22 I. Covered outpatient services shall be subcontracted by a primary
23 care physician or primary care practitioner to other licensed health care
24 providers to the extent practicable for purposes of making health care
25 services available to underserved areas, reducing costs of providing medical
26 care and reducing transportation costs.

27 J. The director shall adopt rules that prescribe the coordination of
28 medical care for members and that include a mechanism to transfer members and
29 medical records and initiate medical care.

30 K. The director shall adopt rules for the reimbursement of specialty
31 services provided to the member if authorized by the member's primary care
32 physician or primary care practitioner.

APPROVED BY THE GOVERNOR MAY 7, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2001.

Passed the House May 01, 20 01,

by the following vote: 46 Ayes,

10 Nays, 4 Not Voting

Jake Flak
Speaker of the House
Pro Tempore

German L. Moore
Chief Clerk of the House

Passed the Senate February 19, 20 01,

by the following vote: 27 Ayes,

1 Nays, 2 Not Voting

Barbara Smith
President of the Senate

Charmian Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

S.B. 1087

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 2, 2001,

by the following vote: 25 Ayes,

3 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

2 day of May, 2001,

at 12:15 o'clock P M.

[Signature]
Secretary to the Governor

APPROVED THIS 7 day of

May, 2001,

at 3:29 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 8 day of May, 2001,

at 2:35 o'clock P M.

[Signature]
Secretary of State

S.B. 1087